

ORDINANCE 21-01

**AN ORDINANCE TO AMEND AND RATIFY THE PERSONNEL POLICY MANUAL OF
THE TOWN OF MILLVILLE, DELAWARE.**

WHEREAS, Section 31(B) of the Charter of the Town of Millville provides:

The Town Council may adopt, alter and amend all such ordinances, regulations, resolutions and rules not contrary to the Constitution and Laws of the United States and the State of Delaware as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any federal or state law relating generally to municipal corporations or which may be deemed proper and necessary for the order, protection and good government of the town; and

WHEREAS, Section 19(e) of the Charter of the Town of Millville provides:

The Town Manager shall be responsible to the Town Council of Millville for the proper administration of the affairs of the Town placed in his or her charge and to that end, he or she shall have the power to make such appointment and to hire such employees at such compensations as the Town Council, by Resolution, shall determine, subject to such rules and regulations as may be adopted by the Town Council; and

WHEREAS, the Mayor and Council have previously approved the Personnel Policy Manual of the Town of Millville, Delaware ("the Manual"), with periodic updates and amendments; and

WHEREAS, the Manual expressly provides for "comp time" for non-exempt employees in keeping with the under the Fair Labor Standards Act ("FLSA"); and

WHEREAS, the Town Manager has proposed updating the Manual to reflect the Town's longstanding practice of providing flexibility in the hours worked by employees deemed exempt under the FLSA, so that those employees can focus their work hours on times of the most need;

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Town Council for the Town of Millville, Sussex County, Delaware, having duly met and a majority thereof concurring herein, that the language in the Personnel Policy Manual of the Town of Millville, Delaware, hereby be amended and incorporated as shown on the attached, with **additions shown in black bold and underlined** and ~~deletions in black bold and strikethrough~~.

BE IT FURTHER ORDAINED, that the Table of Contents of the Manual be amended and updated.

BE IT FURTHER ORDAINED, that the unamended remainder of the Manual be ratified.

ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF MILLVILLE, SUSSEX COUNTY, DELAWARE, ON THIS 12TH DAY OF MAY, 2020.

SEAL:

STEVE MANERI, MAYOR

ATTESTED:

BARBARA RYER, SECRETARY

SYNOPSIS

This ordinance updates the Town's Personnel Policy Manual to expressly provide for the Town's practice of permitting employees exempt under FLSA to use "flextime" within certain parameters. The Town has done so for approximately ten years.

5-2. Compensatory Time Off / Flextime Off

A. Eligibility

1) Non-exempt Employees

All non-exempt full-time employees are eligible to begin accrual of compensatory time off upon employment, to be used with the Town Manager's authorization. This will be compensated at time and one-half over 40 hours of work in a workweek. All non-exempt part-time employees are eligible to begin accrual of compensatory time off upon employment with the Town Manager's authorization. This will be compensated at regular time over 22.50 hours of work, and at time and one-half over 40 hours of work in a workweek.

2) Exempt Employees

All exempt full-time employees are eligible to begin accrual of flextime off upon employment, to be used with the Town Manager's authorization. Should such an exempt employee work over 40 hours in a workweek, the employee will receive flextime off at regular time, not at time and one-half.

B. Terms

1) Accumulation

~~A non-exempt employee may accumulate compensatory time off; however, all accumulated compensatory time off must be used by the end of the fiscal year. No non-exempt employee can exceed more than 25 hours of compensatory time off during the fiscal year.~~

Accumulated compensatory time off (for non-exempt employees) or flextime off (for exempt employees) must be used by the end of the fiscal year. No employee may exceed more than 25 hours of compensatory time off or flextime off at any point during the fiscal year.

2) Computation

a. Compensatory Time off Pay – Non-exempt Employee

All compensatory time off for an eligible employee shall be on a time-off-with-pay-basis and pay shall be computed at the employee's ~~current regular weekly salary~~ hourly rate ~~or based on 37 1/2 hours for hourly paid employees.~~ Each eligible employee ~~may~~ shall earn overtime or compensatory time at the rate of time and one half over forty (40) hours.

b. Flextime Off Pay – Exempt Employee

All flextime off for an eligible employee shall be on a time-off-with-pay-basis and shall not be at a rate of time and one-half even if over forty (40) hours.

3) Separation from Employment

Upon separation from employment, a non-exempt employee shall be paid all accrued unused compensatory time which accrued in the fiscal year which it occurred. Exempt employees shall not be paid for any accrued unused flextime.

4) Benefit Accrual

While an employee is on compensatory time off or flextime off, benefits shall continue as though on regular duty. When the employee returns from such time off, the time spent on leave shall be considered as continuous service in computing vacation and sick leave.

C. Authorization

Compensatory time off or flextime off can be taken only when authorized by the Town Manager after considering ~~for~~ all employees, ~~Due consideration shall be given to~~ the efficient operation of the Town, the employee's personal desires, and length of service.

[Amended 11/27/2018] [Amended 5/12/2020]

2-2. Pay Plan

A. Policy

The pay plan is intended to provide equitable compensation for all positions when considered in relation to each other, to changes in the cost of living, to financial conditions of the Town, and other factors. To this end, the Town Manager shall review the entire salary plan annually to assure that it is current with changing conditions. The Town Manager, following his or her review, shall make such recommendations as he/she considers necessary to the Town Council.

B. Procedure

1) **Pay Day**

All employees shall be paid on Friday bi-weekly (every other Friday). All employees shall be paid by direct deposit but a pay stub will be provided. If a regular pay day falls on a holiday, employees shall be paid on the last scheduled working day prior to the holiday.

2) **Pay Period**

The pay period shall be from Sunday through Saturday with normal work days Monday through Friday.
[Amended 11-27-2018]

3) **Deductions**

The Town is required by law to withhold from each pay check the following deductions:

- a) Federal Income Tax Withholding
- b) Federal Insurance Contributions Act (FICA) Taxes
- c) State Income Tax
- d) Any authorized garnishments by Court of Law

Employees are furnished with a statement in January of each year of the amount withheld during the preceding year.

4) **Overtime Pay/Compensatory Time Off/Flextime Off**

~~Overtime work or compensatory time off must be authorized by the Town Manager. Overtime will be paid to all non-exempt employees in the form of a salary upon authorization by the Town Manager. Compensatory time off may be granted to non-exempt employees at regular time upon written request and approval of the Town Manager. However, after forty (40) hours, overtime will be earned or compensatory time off will be earned at time and one-half for non-exempt employees.~~

Non-exempt Employees

Overtime work or compensatory time off must be authorized by the Town Manager. Overtime will be paid at the next pay day upon authorization by the Town Manager. Compensatory time off may be granted at regular time upon written request and approval of the Town Manager. However, after forty (40) hours, overtime will be earned or compensatory time off will be earned at time and one-half.

Exempt Employees

Flextime off must be authorized by the Town Manager. Exempt employees do not receive overtime pay. Flextime off may be granted at regular time upon written request and approval of the Town Manager. Should an exempt employee work over 40 hours, they will not receive flextime off at time and one-half. [Amended 11-27-2018] [Amended 5-12-2020]

5) **Annual Salary Increase**

Salary increases may be given annually and become effective at the beginning of the Town's fiscal year, May 1. These increases would not be related to promotions or other special considerations. Any employee who is performing at a satisfactory level could be considered for an annual salary increase. The annual salary increase may be granted to an employee after a review of the following areas:

- a) individual work performance during the preceding year, or months in the case of a new employee;

- a) length of service;
- b) any other increase, such as a promotional increase, granted to the employee during the preceding year;
- c) any adjustment necessary to bring an individual's salary into a more equitable relationship with salaries paid to other Town employees with similar experience doing similar work; and
- d) budget and personnel guidelines.

6) Salary Increase for Economic Adjustments

A commodities and services differential increase designed to compensate the employee for recognized increase in Economic Conditions, as determined by the appropriate agencies within the Federal Government. This compensation may be made on an annual basis and become effective at the beginning of the Town's fiscal year, May 1.